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GENERAL STATUTES OF MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES
AND OTHER LAWS OF A GENERAL AND PERMANENT
NATURE, ENACTED BY THE LEGISLATURE
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

COMPILED BY

FRANCIS B. TIFFANY



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cation for such license; and no such license shall be issued until such certificate shall be so filed. ('15 c. 363 § 8)

[3213—]9. **Powers of state auditor—Examination of books, etc.—Penalty for failure to pay tax—Act applicable only to cities of first class—**Whenever any club, corporation or association shall fail to make a report of any contest at the time prescribed by this act, or whenever such report is unsatisfactory to the state auditor, he may examine or cause to be examined, the books and records of such club, corporation or association, and subpoena and examine under oath its officers and other persons as witnesses for the purpose of determining the total amount of its gross receipts for any contest and the amount of the tax due pursuant to the provisions of this act, which tax he may upon and as the result of such examination, fix and determine. In case of the default in the payment of any tax so ascertained to be due, together with the expenses incurred in making such examination, for a period of twenty days after notice to such delinquent club, corporation or association of the amount at which the same may be fixed by the state auditor, such delinquent shall, ipso facto, forfeit its license and shall be thereby disqualified from receiving any new license or any renewal of license; and it shall in addition, forfeit to the State of Minnesota, the sum of five hundred dollars, which may be recovered by the attorney general in the name of the State of Minnesota, in the same manner as other penalties are by law recovered. Provided, however that the provisions of this act shall only apply to cities of the first class. The athletic commission herein provided for shall not have authority to grant licenses for or permit more than twelve boxing exhibitions in any such city during any one year. ('15 c. 363 § 9)

[3213—]10. **Penalty for violation—**Any person who violates any of the provisions of this act, for which a penalty is not herein expressly described, shall be guilty of a misdemeanor. ('15 c. 363 § 10)

CHAPTER 17

ILLEGITIMATE CHILDREN

By § 1, "Chapter 17, General Statutes 1913, is hereby amended so as to read as follows: Chapter 17.—Illegitimate Children," and as set forth in the sections therein and herein numbered 3214 to 3225 (e).

By § 3 this act takes effect January 1, 1918.

3214. **Complaint—Warrant—**On complaint being made to a justice of the peace or municipal court by any woman who is delivered of an illegitimate child, or pregnant with a child which, if born alive, might be illegitimate, accusing any person of being the father of such child, the justice or clerk of the court shall take the complaint in writing, under her oath, and thereupon shall issue a warrant, directed to the sheriff or any constable of the county commanding him forthwith to bring such accused person before such justice or court to answer such complaint; which warrant may be executed anywhere within the state. (Amended '17 c. 210 § 1)

3215. **Action, how entered—Proceedings—**The justice shall enter an action in his docket, or the clerk of court in his register of actions, in which the state shall be plaintiff and the accused defendant, and shall make such other entries as are required in criminal actions. On the return of the warrant with the accused, the justice or judge shall examine under oath the complainant, and such other witnesses as may be produced by the parties, respecting the complaint, and shall reduce such examination to writing. He may at his discretion, and at the request of either party shall, exclude the general public from attendance at such examination. (Amended '17 c. 210 § 1)

3216. **Recognizance to appear—Commitment—**If there is probable cause to believe the defendant guilty as charged in the complaint, the justice or judge shall require him to enter into a recognizance, with approved sureties,

in a sum not less than one hundred dollars nor more than five hundred dollars, to appear before the district court of the proper county at the next term thereof, or if such court is then sitting in the county, at a date fixed by the justice or judge, and answer said complaint and abide the order of such court thereon. If he fails to give such recognizance, the justice or judge shall commit him to the county jail, there to be held to answer such complaint at the next term of such court, or at the date so fixed. Thereupon the justice or judge shall certify the examination, and return the same and all process and papers in the case to the clerk of such court. (Amended '17 c. 210 § 1).

3217. Proceedings in district court—At the next term of said court, or at the date fixed by the justice or judge, if the complainant has not been delivered or is not able to attend, or for any other sufficient reason, the court may continue the cause, and such continuance shall renew the recognizance, which shall remain in force until final judgment. If the sureties shall at any term of court surrender the defendant and ask to be discharged, or if the court shall at any time deem it proper, it may order a new recognizance to be taken, and commit the defendant until it is given. (Amended '17 c. 210 § 1)

3218. Trial—Judgment and proceedings to enforce—Upon the trial the examination taken before the justice or judge of the municipal court shall in all cases be read to the jury when demanded by the defendant. If he is found guilty, or admits the truth of the accusation, he shall be adjudged to be the father of such child and thenceforth shall be subject to all the obligations for the care, maintenance and education of such child, and to all the penalties for failure to perform the same, which are or shall be imposed by law upon the father of a legitimate child of like age and capacity. Judgment shall also be entered against him for all expenses incurred by the county for the lying-in and support of and attendance upon the mother during her sickness, and for the care and support of such child prior to said judgment of paternity, the amount of which expenses, if any, shall also be found by the jury if they return a verdict of guilty; together with the costs of prosecution. If the defendant fails to pay the amount of such money judgment forthwith, or during such stay of execution as may be granted by the court, he shall be committed to the county jail, there to remain until he pays the same or is discharged according to law; provided, however, that no stay shall be granted unless the defendant shall give a bond to the county, in such sum and with such sureties as shall be approved by the court, for the payment of such money judgment on or before the expiration of such stay. (Amended '17 c. 210 § 1)

Evidence of guilt (see 130-206, 153+526).

The five-sixths jury law (§ 7805, post) is applicable to proceedings under this act (135-65, 160+189). Jury, ~~32~~(4).

3219. Action by mother against father—In the event of judgment of paternity as provided in section 3218 the mother shall be entitled to recover of the father in a civil action all expense necessarily incurred by her in connection with her confinement, including her suitable maintenance for not more than eight weeks next prior thereto and not more than eight weeks thereafter; and for the burial of the child if the same shall have been still born or shall have died after birth. (Amended '17 c. 210 § 1)

3220. Petition for discharge—Notice—Any person who has been imprisoned ninety days for failure to pay any such money judgment may apply to said court, by petition setting forth his inability to pay the same, and praying to be discharged from imprisonment, and shall attach to such petition a verified statement of all his property, money and effects whether exempt from execution or otherwise. Thereupon the court shall appoint a time and place for hearing said application, of which the petitioner shall give at least ten days' notice to the county attorney. (Amended '17 c. 210 § 1)

3221. Hearing—Discharge—At the hearing the defendant shall be examined on oath in reference to the facts set forth in such petition and his ability to pay such money judgment, and any other legal evidence in reference to such matters may be produced by any of the parties interested. If it

appears that the defendant is unable to pay such judgment, the court may direct his discharge from custody, upon his making affidavit that he has not in his own name any property, real or personal, and has no such property conveyed or concealed, or in any manner disposed of with design to secure the same to his use or to avoid in any manner payment of such judgment. If upon such hearing it appears that the defendant has property, but not sufficient to pay such judgment, the court may make such order concerning the same, in connection with such discharge as justice may require. The defendant's discharge as aforesaid shall not affect the right of the county to collect upon execution any portion of such judgment remaining at any time unsatisfied, subject to all the provisions of law relating to judgments for the payment of money. (Amended '17 c. 210 § 1)

3222. Complaint by others than mother—If a woman is delivered of an illegitimate child, or is pregnant with a child likely to be illegitimate when born, the county board of the county where she resides, or any member thereof, or the state board of control or any person duly appointed to perform in said county any of the duties of said board relating to the welfare of children, may apply by complaint to a justice of the peace of the county or to a municipal court to inquire into the facts and circumstances of the case. (Amended '17 c. 210 § 1)

3223. Procedure—Warrant—Such justice or the judge of the municipal court may summon the woman to appear before him, and may examine her on oath respecting the father of such child, the time when and place where it was begotten, and any other facts he deems necessary for the discovery of the truth, and thereupon shall issue his warrant to apprehend the putative father. Thereafter the proceedings shall be the same as if the complaint had been made by such woman under the provisions of this chapter, and with like effect, and in all cases the complainant and the accused may require the attendance of such woman as a witness. (Amended '17 c. 210 § 1)

3224. Compromise by board—The county board, either before or after judgment, may make such compromise and settlement with the putative father of any illegitimate child, as they deem equitable and just, for expenses incurred by the county for which judgment may be or shall have been entered pursuant to section 3218. (Amended '17 c. 210 § 1)

3225 (a). Settlement by father—The state board of control or the duly appointed guardian of the person of an illegitimate child shall have authority to accept from the duly adjudged or acknowledged father of the child such sum as shall be approved by the court having jurisdiction of proceedings to establish the paternity of the child, in full settlement of all obligations for the care, maintenance and education of such child; and shall hold or dispose of the same as ordered by said court. Such settlement shall discharge the father of all further liability, civil and criminal, on account of such child; provided that such settlement shall not affect any liability of the father under section 3219. ('17 c. 210 § 1)

3225 (b). Clerk to report name of adjudged father—Upon the entry of a judgment determining the paternity of an illegitimate child the clerk of the district court shall notify in writing the state registrar of vital statistics of the name of the person against whom such judgment has been entered, together with such other facts disclosed by his records as may assist in identifying the record of the birth of the child as the same may appear in the office of said registrar. If such judgment shall thereafter be vacated that fact shall be reported by the clerk in like manner. ('17 c. 210 § 1)

3225 (c). Physician may testify—In any proceeding under this chapter a licensed physician or surgeon may testify concerning the fact and probable date of inception of the pregnancy of his patient without her consent, and shall so testify when duly called as a witness. ('17 c. 210 § 1)

3225 (d). Construction of act—This chapter shall be liberally construed with a view to affecting its purpose, which is primarily to safeguard the interests of illegitimate children and secure for them the nearest possible ap-

proximation to the care, support and education that they would be entitled to receive if born of lawful marriage, which purpose is hereby acknowledged and declared to be the duty of the state; and also to secure from the fathers of such children repayment of public moneys necessarily expended in connection with their birth. ('17 c. 210 § 1)

3225 (e). Records private—All records of court proceedings in cases of alleged illegitimacy shall be withheld from inspection by, and copies thereof shall not be furnished to, persons other than the parties in interest and their attorneys, except upon order of the court. ('17 c. 210 § 1)

[3225—]1. **Partial invalidity of act**—The provisions of this act are severable one from another and in their application to the persons and interests affected thereby. The judicial declaration of the invalidity of any provision, or the application thereof, shall not affect the validity of any other provision, or the application thereof. ('17 c. 210 § 2)

CHAPTER 18

PUBLIC EXAMINER

3236. Subpoenas, witnesses, etc.—

Cited (131-116, 154+750).

CHAPTER 19

INSURANCE

INSURANCE COMMISSIONER

3243. Use of contingent fund—The contingent fund appropriated for the use of the department of insurance may be expended by the commissioner of insurance as he may deem for the best interest of said department. ('11 c. 386 § 4, amended '15 c. 208 § 1)

3245. Same—Examination of companies—Powers of commissioner—At least once in every two years, the commissioner of insurance shall personally, or by his deputy, actuary, examiners or other salaried employé of his office, visit each domestic insurance company, other than township mutual fire insurance companies, and carefully examine its affairs for the purpose of ascertaining its financial condition and ability to fulfill its obligations, and if it be complying with all the provisions of law. He may also make such examination at any other time that he shall have reason to believe that such company is in an unsound condition, or that it is not conducting its business according to the provisions of law. He may also personally or by his deputy, actuary, examiners or other salaried employé of his office whenever he shall deem it necessary, make an appraisal of any or all of the company's assets. The commissioner, or person making the examination by his direction shall have free access to all books and papers of any company, and of the books and papers of any of its agents, that may relate to its business, and may summon and examine under oath of its directors, officers, agents, trustees, or other persons, in relation to its affairs and condition. The commissioner of insurance may in like manner, whenever he deems it necessary, make an examination of the affairs or an appraisal of any or all of the assets of any insurance company admitted, or applying for admission to do business under the laws of this state.